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 21 ALAMEDA COUNTY SHERIFF

22 **UNITED STATES DISTRICT COURT**
 23 **NORTHERN DISTRICT OF CALIFORNIA**

24 RICHARD RAY, an individual, SALLY RAY,
 25 an individual, and RICHARD AND SALLY
 RAY, husband and wife,

26 Plaintiffs,

v.

27 CITY OF OAKLAND, a municipal
 28 organization, WAYNE TUCKER, Chief of
 29 the City of Oakland Police Department,
 30 ALAMEDA COUNTY, GREGORY AHERN,
 31 ALAMEDA COUNTY SHERIFF DOE
 32 DEFENDANT 1, an unknown police officer,
 33 DOE DEFENDANT 2 an unknown police
 34 officer, DOE DEFENDANT 3, an unknown
 35 police officer, DOE 4, an unknown police
 36 officer, DOES 5 an unknown sheriff, DOE 6
 37 an unknown sheriff, and Does 7 to 75,
 38 inclusive,

39 Defendants.

40 Case No.

41 **C08-03627**
 42 DEFENDANTS' JOINT NOTICE OF
 43 REMOVAL OF ACTION (28 U.S.C.
 44 Section 1441)

45 (Alameda County Superior Court Case
 46 No.: RG08375364)

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JUL 29 2008
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADR

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1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
2 DISTRICT OF CALIFORNIA:

3 PLEASE TAKE NOTICE that Defendants hereby remove to this Court the state
4 court action described below, pursuant to 28 U.S.C. § 1441.

5 I.

6 On March 7, 2008, a Summons and Complaint was filed in the Superior Court of
7 the State of California, County of Alameda, where this action is now pending as *Richard*
8 *Ray, et al. v. City of Oakland, et al.*, Superior Court case no. RG08375364, (a copy of
9 which is attached hereto as Exhibit "A"). The Complaint includes claims for deprivation of
10 civil rights against the removing defendants arising under 42 U.S.C. § 1983. The
11 Complaint also includes state causes of action.

12 II.

13 Defendants were served with the Summons and Complaint on July 2, 2008.
14 Copies of the proofs of service as to each defendant filed on July 8, 2008, in state court
15 are attached hereto as Exhibit "B".

16 A copy of City of Oakland and Wayne Tucker's answer filed on July 23, 2008, in
17 state court is attached hereto as Exhibit "C".

18 III.

19 This Court has original jurisdiction of this civil action pursuant to 28 U.S.C. Section
20 1331. The action is one which may be removed to this Court pursuant to 28 U.S.C.
21 Section 1441(b) in that the deprivation of civil rights claims arising under 42 U.S.C. §1983
22 raise federal questions. This action may be removed to the United States District Court
23 for the Northern District of California in that it arises out of occurrences alleged to have
24 taken place in Alameda County, California.

25 ///

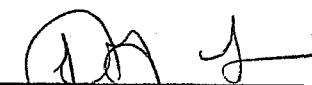
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1 IV.
2
3

4 This Notice of Removal of Action is hereby filed by Defendants within thirty (30)
5 days after service of the Summons and Complaint.
6
7

8 Dated: July 21, 2008
9

10 JOHN A. RUSSO, City Attorney
11 RANDOLPH W. HALL, Assistant City Attorney
12 WILLIAM E. SIMMONS, Supervising Trial Attorney
13 JENNIFER N. LOGUE, Deputy City Attorney
14

15 By: 
16

17 Attorneys for Defendants,
18 CITY OF OAKLAND and WAYNE TUCKER
19

20 Dated: July 29, 2008
21

22 CLYDE A. THOMPSON
23 HAAPALA THOMPSON & ABERN, LLP
24

25 By: 
26

27 Attorneys for Defendants,
28 ALAMEDA COUNTY, GREGORY AHERN,
29 ALAMEDA COUNTY SHERIFF
30

EXHIBIT A

1 Sheila Gropper Nelson, SBN 85031
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3 456 Montgomery St., Suite 1700
4 San Francisco, CA 94104
5 Telephone: (415) 362-2221
Facsimile: (415) 576-1422
Attorney for Plaintiffs
Richard Ray and
Sally Ray

ENDORSED
FILED
ALAMEDA COUNTY

MAR 07 2008

CLERK OF THE SUPERIOR COURT
By Susan C. Campaña
Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9
10 COUNTY OF ALAMEDA
(Unlimited Jurisdiction)

11
12 Richard Ray, an individual, Sally Ray, an
individual, and Richard and Sally Ray,
husband and wife

Plaintiff

13 v.
14
15 City of Oakland, a municipal organization
Wayne Tucker, Chief of the
16 City of Oakland Police Department,
Alameda County, Gregory Ahern
17 Alameda County Sheriff
Doe Defendant 1, an unknown
18 police officer, Doe Defendant 2
an unknown police officer, Doe
19 Defendant 3, an unknown police officer,
Doe 4, an unknown police officer, Does 5
20 an unknown sheriff, Doe 6 an unknown
sheriff, and Does 7 to 75, inclusive,
Defendants.

BY FAX

Case Number **R G 0 8 3 7 5 3 6 4**

COMPLAINT FOR DAMAGES

For Assault, Battery and Violation
of Civil Rights et al.

JURY TRIAL DEMANDED

22 Plaintiffs, Richard Ray and Sally Ray, allege as follows:
23

24 **GENERAL ALLEGATIONS:**

25 **PARTIES:**

- 26 1. Plaintiff Richard Ray is an African American citizen of the City
of Oakland, County of Alameda and the husband of Sally Ray.
- 27 2. Plaintiff Sally Ray is an African American citizen of the City of Oakland,

28 Complaint/Civil Rights/Assault et al.

1 County of Alameda and the wife of Richard Ray.

2 3. At all times mentioned in this complaint plaintiffs are informed and believe
3 and thereon allege that defendant, City of Oakland ("CITY") is a municipal corporation duly
4 organized and existing under the laws of the State of California. Under its authority the City
5 operates the Oakland Police Department. (hereafter "the City")

6 4. At all times mentioned in this complaint plaintiffs are informed and believe
7 and thereon allege that defendant, County of Alameda ("COUNTY") is duly organized and
8 existing under the laws of the State of California and under its authority operates the Sheriff's
9 Department for the County of Alameda. (hereafter "the County")

10 5. At all times mentioned in this complaint plaintiffs are informed and believe
11 and thereon allege that Wayne Tucker was employed by defendant City as Chief of Police
12 for the CITY. Defendant Tucker is being sued in his official capacity as Chief of police for
13 defendant City.

14 6. At all times mentioned in this complaint plaintiffs are informed and believe
15 and thereon allege that Defendant Gregory Ahern was employed by defendant County as
16 Sheriff for the County. Defendant Ahern is being sued in his official capacity as County
17 Sheriff.

18 7. Plaintiffs do not know the true names of Doe Defendant 1, an unknown
19 police officer, and therefore sue said police officer by this fictitious name. Plaintiff is
20 informed and believes that DOE Defendant 1 is a California resident and/or businesses duly
21 authorized to conduct business in the State of California and acting under the color of law
22 and authority. Plaintiffs are suing said police officer in the capacity as a police officer for the
23 City.

24 8. Plaintiffs do not know the true names of Doe Defendant 2, an unknown
25 police officer, and therefore sue said police officer by this fictitious name. Plaintiffs are
26 informed and believe that DOE defendant 2 is a California residents and/or businesses duly
27 authorized to conduct business in the State of California and acting under the color of law
28 and authority. Plaintiffs are suing said police officer in the capacity as a police officer for the
Complaint/Civil Rights/Assault et al.

1 City.

2 9. Plaintiffs do not know the true names of Doe defendant 3, an unknown
3 police officer, and therefore sue said police officer by this fictitious name. Plaintiffs are
4 informed and believes that DOE defendant 3 is a California resident and/or businesses duly
5 authorized to conduct business in the State of California and acting under the color of law
6 and authority. Plaintiffs are suing said police officer in the capacity as a police officer for the
7 City.

8 10. Plaintiffs do not know the true names of Doe defendants 4 an unknown
9 police officer, and therefore sue said police officer by this fictitious name. Plaintiffs are
10 informed and believes that DOE defendant 4 is a California resident and/or businesses duly
11 authorized to conduct business in the State of California and acting under the color of law
12 and authority. Plaintiffs are suing said police officer in the capacity as a police officer for the
13 City.

14 11. Plaintiffs do not know the true names of DOE defendant 5, an unknown
15 sheriff, and therefore sue said police officer by this fictitious name. Plaintiffs are informed
16 and believes and therefore allege that DOE Defendant 5 is a California resident and/or
17 businesses was duly authorized to conduct business in the State of California and acting
18 under the color of law and authority. Plaintiffs are suing said sheriff in the capacity as a
19 sheriff for the County.

20 12. Plaintiffs do not know the true names of Doe Defendants DOE 6, an
21 unknown County Sheriff, and therefore sue said Sheriff by this fictitious name. Plaintiffs are
22 informed and believes that DOE Defendant 6 is a California residents and/or businesses
23 duly authorized to conduct business in the State of California and acting under the color of
24 law and authority. Plaintiffs are suing said Sheriff in the capacity as a sheriff for the County.

25 13. Plaintiffs do not know the true names of defendants DOES 7 through 75,
26 inclusive, and therefore sues them by these fictitious names. Plaintiff s are informed and
27 believes and thereon allege that DOE defendants 7 through 75 are California residents
28 and/or businesses duly authorized to conduct business in the State of California and in doing
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1 the acts and omissions to act set forth herein were acting under the color of law and
2 authority.

3 14. Unless otherwise alleged in this complaint, plaintiffs are informed and believe,
4 and on the basis of that information and belief allege, that at all times mentioned in this
5 complaint, defendants, named and fictitious, were the agents of their co-defendants, and
6 in doing the things alleged in this complaint were acting within the course and scope of that
7 agency and employment.

8 15. Plaintiffs are informed and believe and thereon allege that the defendants
9 named as Does in the complaint identities are more fully known to defendants City and
10 County but that said identities have been willfully and maliciously hidden from plaintiffs in
11 furtherance of a conspiracy to avoid liability for each and all of the acts and omissions
12 complained of herein.

13 16. Each and all of the acts relevant hereto were performed in the County of
14 Alameda.

15 17. There is a unity of interest between the named defendants, including but not
16 limited to Tucker and Ahern, City and County, and each of the Doe defendants, 1 through
17 75 inclusive, such that the acts of the one are for the benefit and can be imputed to and
18 are as the acts of the other. Plaintiffs are informed and believe, and thereon allege, that
19 each of the Defendants named in this action was the principal, agent, servant, employer,
20 officer, director, co-conspirator, partner or joint venturer of each other Defendant, and in
21 committing the actions described herein below, acted within the scope of such agency,
22 relationship, employment, conspiracy, partnership or joint venture. Plaintiffs are informed
23 and believe, and thereon allege, that each of the Defendants approved, ratified or
24 acquiesced in the actions and/or conduct of each other Defendant described herein.

25 VENUE AND JURISDICTION:

26 18. All of the acts and omissions to act, set forth herein, occurred in the City of
27 Oakland , County of Alameda.

28 19. All of the acts and omissions to act, set forth herein, were done by defendants
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1 in their official capacities as employees, officers and agents of defendant City and defendant
2 County.

3 20. For state based causes of actions Plaintiffs are informed and believe that
4 administrative claim requirements apply and that same have been complied with.

5 21. Plaintiffs are informed and believe and thereon allege that at all times
6 relevant hereto defendants, and each of them, had actual knowledge or knew and should
7 have known that the force being used and herein complained of was excessive and
8 unjustified and were reckless in said use of force.

9 22. In engaging in the conduct described herein Defendant Police Chief and
10 Officers and County Sheriff and Sheriffs, individually and in concert, one with the other, acted
11 under the color of law and authority in the course and scope of their employment by both the
12 City of Oakland and by the County of Alameda. In engaging in the conduct described
13 herein the defendants, and each of them, exceeded the authority vested in them as both
14 police officers and sheriffs, both individually and collectively, violated plaintiffs civil rights as
15 granted to them pursuant to the constitutions of the United States and the State of
16 California.

17 STATEMENT OF FACTS:

18 23. In or about February, 2007 plaintiff Mr. Richard Ray, a middle class middle
19 aged African American resident of the City of Oakland, was assaulted, battered,
20 handcuffed, falsely imprisoned and humiliated by unknown and unidentified numbers of
21 police officers, County sheriffs and others, including but not limited to canine units and
22 helicopter(s), at gun point, all the while engaged in conduct benign in nature, to wit,
23 taking water to a friend. Mr. Ray while clothed in his pajamas, bath robe and bedroom
24 slippers outside of his own residence on Miles Avenue, Oakland, California was assaulted,
25 battered, falsely imprisoned, restrained, manhandled, and humiliated at gun point in clear
26 view of and in front of his wife, friend, neighbors and others.

27 24. At the time of the subject incident, and without reasonable cause or justifiable
28 belief, and in conscious and reckless disregard for Mr. Ray's right to privacy, peace and
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1 enjoyment defendants, and each of them, disturbed his privacy and peace by forcibly ; with
2 gun(s) drawn, assaulting, battering and forcing him; Mr. Ray, to the ground and
3 sidewalk, in front of his own home, forcing his arms behind his back to handcuff him, and
4 restrained in him, in handcuffs, against his will all in front of his wife, neighbors, friends
5 and others for an extended period of time. Defendants, and each of them, acted so to
6 assault and batter Mr. Ray despite being informed and told, by both Mr. Ray and Mrs. Ray
7 and others, in reasoned tones, that Mr. Ray resided in the adjacent home, suffered from
8 back injuries and could not get down on the ground and could not put his arms behind his
9 back without causing him severe and further physical harm.

10 25. In conscious disregard and without reasonable cause, defendants, and each
11 of them, used excessive and unreasonable force in doing the acts or failing to act as set forth
12 herein.

13 26. At no relevant time did the defendants, and each of them, act to determine
14 whether the force used by them, individually and as agents one of the other, was
15 reasonable.

16 27. At all times relevant Mr. Ray acted to mitigate his damages by informing and
17 advising the defendants, and each of them, individually and as the agents one of the other,
18 that he lived in the subject residence, that he had a bad back and that he could not get
19 down onto the ground and/or put his arms behind his back without pain and injury.
20 Defendants and each of them acted with conscious and callous disregard of the harm that
21 would be suffered by Mr. Ray, the violation of his constitutional rights and privileges; and
22 with a conscious disregard for the information being provided to them.

23 28. At all times relevant Mrs. Ray acted to mitigate the damages suffered by
24 herself and her husband, by informing and advising the defendants, and each of them,
25 individually and as the agents one of the other, that Mr. Ray lived in the subject residence,
26 that he had a bad back and that he could not get down on the ground or put his arms
27 behind his back without pain and injury. Defendants and each of them acted with conscious
28 and callous disregard for the information being provided to them and willfully and
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1 maliciously acted to cause substantial harm to Mr. Ray and emotional distress to Mrs. Ray
2 by their conduct. Mrs. Ray witnessed the acts and omissions of the defendants and was put
3 in apprehension of her well being and the well being of her husband.

4 29. At all times relevant hereto plaintiffs acted to mitigate their damages.

5 30. At all times relevant hereto defendants, and each of them, in furtherance of
6 the conspiracy to violate the civil rights of the plaintiffs acted with a conscious, reckless and
7 callous disregard for the civil rights of the plaintiffs and the harm that their conduct would
8 and did create for plaintiffs.

9 31. In compliance with applicable administrative claim requirements, claim
10 was made, as required by law, relating to each and all of the conduct complained of herein
11 above. Response to said claim(s) denied the claim; and further denied the existence of the
12 events of February, 2007 specifically claiming that no incident or other report exists to
13 confirm the subject events, that no report or other documents existed to confirm the use of
14 canine and helicopter units , and that no events occured on Miles Avenue as reported by the
15 plaintiffs. Plaintiffs are informed and believe and thereon allege that said denial of the claim
16 together with the denial of the events giving rise to the claim are each, individually and
17 collectively, continuing acts by defendants and each of them to violate plaintiffs civil rights
18 as granted to them by the constitutions of the State of California and the United States of
19 America.

20 32. Plaintiffs are further informed and believe and thereon allege that said claim
21 denial continues through to and following defendants actual investigation into and interview
22 of witness, who plaintiffs are informed and believe and thereon allege confirm the events of
23 February, 2007. Plaintiffs are informed and believe and thereon allege that said denial and
24 claim denial is a continuing act by defendants, and each of them, to violate plaintiffs' civil
25 rights.

26 33. Plaintiffs are informed and believe and thereon allege that said acts and
27 omissions to act by defendants, and each of them, include but are not limited to the use of
28 extreme and unreasonable force by defendants and each of them, without just cause under
Complaint/Civil Rights/Assault et al.

1 the color of law and authority; and that said force was unjustified, unreasonable and
2 excessive and was used in wanton disregard for the harm that it would and did cause
3 plaintiffs; and the deliberate and premeditated denial of the events of February, 2007.
4 Plaintiffs are further informed and believe and thereon allege that the acts and omissions to
5 act by defendants and each of them was and continues to be an abuse of the authority
6 granted to said defendants by the law and further violated plaintiffs civil rights granted to
7 plaintiffs by the constitutions of the State of California and the United States of America.

8 DAMAGES:

9 34. Mr. Ray has suffered assault, battery, false imprisonment, violation of his civil
10 rights, humiliation, severe emotional distress, embarrassment, fear, terror, loss of his sense
11 of security, dignity and pride as a citizen of the United States, and loss of consortium.

12 35. Mr. Ray continues to suffer humiliation and anxiety as a direct and proximate
13 result of the acts and omissions by defendants and each of them. Mr. Ray has sought and
14 received medical care relating to these damages.

15 36. The acts and omissions by the defendants and each of them continue to cause
16 physical harm to Mr. Ray and he has sought and received medical care relating to these
17 damages.

18 37. The conduct of the defendants, and each of them, in February, 2007 through
19 to and including the denial of the acts and omissions by them of the February, 2007 events
20 were and continue to be done with a reckless and callous indifference to plaintiffs'
21 constitutionally protected rights; and were and continue to be malicious, willful, wanton and
22 oppressive and have been done with a conscious disregard for the damage, emotional
23 distress and humiliation that resulted from and continue to result from said acts and
24 omissions for plaintiffs, and each of them.

25 38. As a direct and proximate result of the conduct of the defendants, and each
26 of their conduct, through to and including but not limited to the denial of the events of
27 February, 2007 Mr. Ray suffered pain, embarrassment, suffering, humiliation, emotional
28 distress and loss of consortium, and found it necessary to and did engage private counsel to
Complaint/Civil Rights/Assault et al.

1 remedy and vindicate his rights under the laws of the United States and the State of
2 California. Plaintiff is entitled to recovery all of his attorney fees and costs of suit pursuant
3 to the laws of the State of California and the United States including but not limited to Title
4 42 United States Code Section 1988 et seq.

5 39. Mrs. Ray watched as her husband suffered assault, battery, false
6 imprisonment, humiliation, violation of his civil rights and as a direct and proximate result
7 suffered anxiety and emotional distress and violation of her own civil rights together with the
8 humiliation of both Mr. and Mrs. Ray and as a direct and proximate result thereof suffered
9 emotional distress and loss of consortium.

10 40. The conduct of the defendants, and each of them, in February, 2007 through
11 to and including the denial of the February, 2007 events were and continue to be
12 malicious, willful, wanton and oppressive and have been done with a conscious disregard
13 for the harm said conduct did and continues to create for plaintiffs, individually and as a
14 community.

15 41. As a direct and proximate result of the conduct of the defendants and each of
16 them, through to and including but not limited to the denial of the February 2007 events
17 Mrs. Ray found it necessary to and did engage private counsel to remedy and vindicate the
18 rights of her husband and herself, under the laws of the United States and the State of
19 California. Plaintiff Mrs. Ray is entitled to recovery all of her attorney fees and costs of suit
20 pursuant to the laws of the State of California and the United States including but not limited
21 to Title 42 United States Code Section 1988 et seq.

22 FIRST CAUSE OF ACTION

23 (ASSAULT)

24 42. Plaintiff Mr. Ray incorporates herein by this reference each and all of the
25 preceding paragraphs as though fully set forth.

26 43. In or about February, 2007 Mr. Ray a middle aged middle class African
27 American adult man, outside of his own personal residence located on Miles Avenue
28 Oakland California, clothed in his pajamas, bath rob and bedroom slippers holding water
Complaint/Civil Rights/Assault et al.

1 for his friend was violently and without just cause or reasonable basis assaulted, battered,
2 falsely imprisoned and humiliated by officers and agents he is informed and believes were
3 officers of City and sheriffs of County; he was forced to the ground, had his arms wrenched
4 behind his back, was hand cuffed and falsely imprisoned at gun point in front of his wife,
5 friend, neighbors and unknown others with canine units and helicopters around and about
6 him.

7 44. Plaintiffs, Mr. and Mrs Ray, are informed and believes and thereon
8 allege that others together with them all informed the defendants and each of them that Mr.
9 Ray resided in the home on Miles Avenue and that the force was excessive and unnecessary.
10 Plaintiffs are informed and believe and thereon allege that defendants and each of them in
11 conscious disregard for the harm proximately caused thereby failed and refused to cease
12 their excessive force.

13 45. Plaintiffs are informed and believe and thereon allege that said force by
14 defendants, and each of them, was under the color of law and authority, was unjustified,
15 unreasonable and excessive and was used in wanton disregard for the harm that it would and
16 did cause plaintiffs; and was an abuse of said law and authority in violation of plaintiffs civil
17 rights granted to them by the constitutions of the State of California and the United States of
18 America.

19 46. Plaintiff Mr. Ray is informed and believes and thereon alleges that in doing the
20 acts and omissions to act complained of herein that the defendants acted with an intent to
21 make contact with Mr. Ray's body and the acts or omissions to act by the defendants were
22 neither privileged or justified under statute or common law.

23 47. In doing the acts alleged defendants and each of them intended to place
24 plaintiff in apprehension of offensive contact with his person.

25 48. At no time did Plaintiff Mr. Ray consent voluntarily to the acts and omissions
26 to act by the defendants and each of them.

27 49. As a direct proximate result of the acts or failure to act by defendants and
28 each of them plaintiff Mr. Ray suffered offensive contact to his body, aggravation of existing
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1 injuries, and was put in fear and apprehension of further acts by the defendants to himself
2 and to his wife through willful and unjustified contact by defendants.

3 50. As a direct and proximate result of the acts and omissions of the defendants,
4 each acting under the color of law and authority, plaintiff was injured in his strength, health,
5 and activity, sustaining injury to his body, and shock to his nervous system including injury
6 to his back and shoulders, humiliation and shame all to his general damages.

7 51. As a further, proximate result of defendants' unlawful conduct, plaintiff suffered
8 special damages including but not limited to loss of income, medical and professional
9 expenses; in an amount in excess of the jurisdictional limits of the court, and loss of
10 consortium.

11 52. Plaintiffs are informed and believe and thereon allege that defendants
12 conduct arise from hatred and ill-will toward plaintiff, an African American man, and a
13 desire to oppress plaintiff and with the wrongful intention of injuring plaintiff. The conduct
14 was taken with an improper and evil motive amounting to malice, and in reckless, callous
15 and conscious disregard of plaintiff's civil rights. Because the actions taken toward plaintiff
16 were carried out in a cold, deliberate, callous and intentional manner in order to injure and
17 damage plaintiff, plaintiff is entitled to recover punitive damages from defendants in an
18 amount to dissuade such further abuse by defendants City, County, Tucker, Ahern and Does
19 1 through 75, inclusive.

20 WHEREFORE, plaintiffs pray for relief as herein after set forth.

SECOND CAUSE OF ACTION

(BATTERY)

23 | 53. Plaintiffs incorporate herein by this reference each and all of the preceding
24 | paragraphs as though fully set forth.

25 54. Plaintiffs are informed and believe and thereon allege that the defendants,
26 named and fictitious, were the agents one of the other each acting within the scope of their
27 employment and agency and were further acting under the color of law and authority and
28 each acted with excessive force without justification or reasonable cause.

1 55. Plaintiff, as set forth above, a middle aged middle class African American
2 man outside of his own personal residence located on Miles Avenue, Oakland, California,
3 clothed in his pajamas, bath rob and bedroom slippers holding water for his friend was
4 violently and without just cause or reasonable basis assaulted, battered, falsely imprisoned
5 and humiliated at gun point by officers and agents who he is informed and believes were
6 officers of City and sheriffs of County; he was forced to the ground, had his arms wrenched
7 behind his back, was hand cuffed and falsely imprisoned against his will in front of his wife,
8 friend, neighbors and unknown others with canine units and helicopters around and about
9 him.

10 56. In doing the acts alleged defendants intended to make contact with
11 plaintiff, Mr. Ray's person and did in fact make such contact.

12 57. At all times mentioned plaintiff found the contact made offensive,
13 threatening, and intimidating to his, Mr. Ray's person and his dignity and the acts or
14 omissions to act by the defendants were neither privileged or justified under statute or
15 common law.

16 58. Defendants and each of them knew or should have known that such acts or
17 threats of acts would and did cause plaintiff extreme apprehension of offensive contact.

18 59. As a direct proximate result of the acts or failure to act by defendants and
19 each of them plaintiff Mr. Ray was, in fact, placed in apprehension of offensive contact to his
20 person and to the person of his wife in front of his wife, neighbors, friend and unknown
21 others.

22 60. As a direct and proximate result of the acts and omissions of the defendants,
23 each acting under the color of law and authority, plaintiff was injured in his strength, health,
24 and activity, sustaining injury to his body, and shock to his nervous system including injury
25 to his back and shoulders, humiliation and shame all to his general damages.

26 61. As a further, proximate result of defendants' unlawful conduct, plaintiff suffered
27 special damages including but not limited to loss of salary, medical and professional
28 expenses, in an amount in excess of the jurisdictional limits of the court and loss of
Complaint/Civil Rights/Assault et al.

consortium.

2 62. Defendants' conduct arise from hatred and ill-will toward plaintiff, an African
3 American , a desire to oppress plaintiff and with a conscious disregard for his
4 constitutionally protected rights, and with the wrongful intention of injuring plaintiff. The
5 conduct was taken with an improper and evil motive amounting to malice and in reckless ,
6 callous, and conscious disregard of plaintiff's constitutionally protected rights. Because the
7 actions taken toward plaintiff were carried out under the color of law and authority and in
8 a cold, deliberate, callous and intentional manner with excessive force, without justification,
9 plaintiff is entitled to recover punitive damages in an amount appropriate to dissuade such
10 conduct by defendants City, County, Tucker, Ahern and Does 1 through 75, inclusive .
11 WHEREFORE, plaintiffs pray for relief as herein after set forth.

THIRD CAUSE OF ACTION

(FALSE IMPRISONMENT)

14 63. Plaintiffs incorporate herein by this reference each and all of the preceding
15 paragraphs as though fully set forth.

16 64. Plaintiffs are informed and believe and thereon allege that the defendants,
17 both named and fictitious, were the agents one of the other, were each acting within the
18 scope of their employment and agency, were each acting under the color of law and
19 authority and each acted with excessive force without justification or reasonable cause.

20 65. Plaintiff, as set forth above, a middle aged middle class African American
21 man outside of his own personal residence located on Miles Avenue, Oakland, California,
22 clothed in his pajamas, bath rob and bedroom slippers holding water for his friend was
23 violently and without just cause or reasonable basis assaulted, battered, falsely imprisoned
24 and humiliated at gun point by officers and agents he is informed and believes were officers
25 of City and sheriffs of County; was forced to the ground, had his arms wrenched behind
26 his back, was hand cuffed and falsely imprisoned in front of his wife, friend, neighbors and
27 unknown others with canine units and helicopters ground and about him.

Complaint/Civil Rights/Assault et al. 13

1 and imprison plaintiff, Mr. Ray, against his will without reasonable cause or justification and
 2 the acts or omissions to act by the defendants were neither privileged or justified under statute
 3 or common law.

4 67. As a direct and proximate result of the acts and omissions of the defendants,
 5 each acting under the color of law and authority, plaintiff was injured in his strength, health,
 6 and activity, sustaining injury to his body, and shock to his nervous system including injury
 7 to his back and shoulders, humiliation and shame all to his general damages.

8 68. As a further and proximate result of defendants' unlawful conduct, plaintiff
 9 suffered special damages including but not limited to loss of salary, medical and professional
 10 expenses, in an amount in excess of the jurisdictional limits of the court and loss of
 11 consortium.

12 69. Defendants' conduct arise from hatred and ill-will toward plaintiff, an African
 13 American and a desire to oppress plaintiff and with the wrongful intention of injuring plaintiff.
 14 The conduct was taken with an improper and evil motive amounting to malice and in
 15 conscious disregard of plaintiff's rights and abilities. Because the actions taken toward
 16 plaintiff were carried out in a cold, deliberate, callous and intentional manner and with
 17 excessive force and without justification and under the color of law in order to injure and
 18 damage plaintiff's civil rights, plaintiff is entitled to recover punitive damages from defendants
 19 City, County, Tucker, Ahern and Does 1 through 75, inclusive, in an amount according to
 20 proof and in an amount appropriate to dissuade such future conduct.

21 WHEREFORE, plaintiffs pray for relief as herein after set forth.

22 FOURTH CAUSE OF ACTION

23 (ASSAULT-42 USC SECTION 1983 ALL DEFENDANTS)

24 70. Plaintiff Mr. Ray incorporates herein by this reference each and all of the
 25 preceding paragraphs as though fully set forth.

26 71. In or about February, 2007 plaintiff, a middle aged middle class African
 27 American adult man, outside of his own personal residence located on Miles Avenue
 28 Oakland California, clothed in his pajamas, bath rob and bedroom slippers holding water
 Complaint/Civil Rights/Assault et al.

1 for his friend was violently and without just cause or reasonable basis assaulted, battered,
2 falsely imprisoned and humiliated at gun point by officers and agents he is informed and
3 believes were officers of City and sheriffs of County; he was thrown to the ground, had his
4 arms wrenched behind his back, was hand cuffed and falsely imprisoned against his will in
5 front of his wife, friend, neighbors and unknown others with canine units and helicopters
6 around and about him.

7 72. Plaintiffs, Mr. and Mrs Ray, are informed and believe and thereon
8 allege that others, together with them, informed the defendants and each of them that Mr.
9 Ray resided in the home on Miles Avenue and that the force was excessive and unnecessary.
10 Plaintiffs are informed and believe and thereon allege that defendants and each of them in
11 conscious disregard for that harm failed and refused to cease their excessive force.

12 73. Plaintiffs are informed and believe and thereon allege that said force by
13 defendants, and each of them, under the color of law and authority, was unjustified,
14 unprivileged, unreasonable and excessive and was used in reckless, callous , and wanton
15 disregard for plaintiffs civil rights and the harm that it would cause plaintiffs; and was an
16 abuse of said law and authority in violation of plaintiffs civil rights granted to them by the
17 constitutions of the State of California and the United States of America and the acts or
18 omissions to act by the defendants were neither privileged or justified under statute or
19 common law.

20 74. Defendants and each of them acted under color of law and authority and
21 without due process of law in subjecting plaintiff to detention, threat of force, force, use of
22 excessive force, and false imprisonment all with the intent of and having the result that
23 plaintiff Mr. Ray was deprived of certain constitutionally protected rights including but not
24 limited to:

25 a] the right to be free from unreasonable search and seizures as guaranteed by
26 the Fourth and Fifth Amendments to the United States Constitution.
27 b] the right not to be deprived of life or liberty without due process of law, as
28 guaranteed by the Fourteenth and Fifth Amendments to the United States

1 Constitution.

2 c] the right to be free from the use of excessive force by police officers and
 3 sheriffs under the color of law and authority as guaranteed by the Fourth and
 4 Fifth Amendments to the United States Constitution.

5 d] the right to equal protection under the law as guaranteed by the Fourteenth
 6 and Fifth Amendments to the United States Constitution.

7 e] the right to be free from interference within a zone of privacy , as protected by
 8 the Fourth and Ninth Amendments to the United States Constitution.

9 WHEREFORE, plaintiffs pray for relief as herein after set forth.

10 FIFTH CAUSE OF ACTION

11 (BATTERY-42 USC SECTION 1983 ALL DEFENDANTS)

12 75. Plaintiff Mr. Ray incorporates herein by this reference each and all of the
 13 preceding paragraphs as though fully set forth.

14 76. In or about February , 2007 plaintiff , a middle aged middle class African
 15 American adult man, outside of his own personal residence located on Miles Avenue
 16 Oakland California, clothed in his pajamas, bath rob and bedroom slippers holding water
 17 for his friend was violently and without just cause or reasonable basis assaulted, battered,
 18 falsely imprisoned and humiliated at gun point by officers and agents he is informed and
 19 believes were officers of City and sheriffs of County; he was forced to the ground, had his
 20 arms wrenched behind his back, was hand cuffed at gun point in front of his wife, friend,
 21 neighbors and unknown others with canine units and helicopters around and about him.

22 77. Plaintiffs, Mr. and Mrs Ray, are informed and believe and thereon allege that
 23 others, together with them, informed the defendants and each of them that Mr. Ray resided
 24 in the home on Miles Avenue and that the force was excessive and unnecessary. Plaintiffs
 25 are informed and believe and thereon allege that defendants and each of them in conscious
 26 disregard for that harm failed and refused to cease their excessive force.

27 78. Plaintiffs are informed and believe and thereon allege that said force by
 28 defendants, and each of them, under the color of law and authority, was unjustified,
 Complaint/Civil Rights/Assault et al.

1 unreasonable and excessive and was used in wanton disregard for the harm that it would
2 cause plaintiffs; and was an abuse of said law and authority in violation of plaintiffs civil
3 rights granted to them by the constitutions of the State of California and the United States of
4 America and the acts or omissions to act by the defendants were neither privileged or
5 justified under statute or common law.

6 79. Defendants and each of them acted recklessly and callously, under color of
7 law and authority and without due process of law and in violation of plaintiff's civil rights,
8 in subjecting plaintiff threat of force, force, use of excessive force, and false imprisonment
9 all with the intent of and having the result that plaintiff Mr. Ray was deprived of certain
10 constitutionally protected rights including but not limited to:

- 11 a] the right to be free from unreasonable search and seizures as guaranteed by
12 the Fourth and Fifth Amendments to the United States Constitution.
- 13 b] the right not to be deprived of life or liberty without due process of law, as
14 guaranteed by the Fourteenth and Fifth Amendments to the United States
15 Constitution.
- 16 c] the right to be free from the use of excessive force by police officers and
17 sheriffs under the color of law and authority as guaranteed by the Fourth and
18 Fifth Amendments to the United States Constitution.
- 19 d] the right to equal protection under the law as guaranteed by the Fourteenth
20 and Fifth Amendments to the United States Constitution.
- 21 e] the right to be free from interference within a zone of privacy , as protected by
22 the Fourth and Ninth Amendments to the United States Constitution.

23 WHEREFORE, plaintiffs pray for relief as herein after set forth.

SIXTH CAUSE OF ACTION

(FALSE IMPRISONMENT-42 USC SECTION 1983 ALL DEFENDANTS)

26 80. Plaintiff Mr. Ray incorporates herein by this reference each and all of the
27 preceding paragraphs as though fully set forth.

28 81. In or about February, 2007 plaintiff , a middle aged middle class African
Complaint/Civil Rights/Assault et al.

1 American adult man, outside of his own personal residence located on Miles Avenue
 2 Oakland California, clothed in his pajamas, bath rob and bedroom slippers holding water
 3 for his friend was violently and without just cause or reasonable basis assaulted, battered,
 4 falsely imprisoned and humiliated at gun point by officers and agents he is informed and
 5 believes were officers of City and sheriffs of County; he was forced to the ground, had his
 6 arms wrenched behind his back, was hand cuffed and falsely imprisoned in front of his wife,
 7 friend, neighbors and unknown others with canine units and helicopters around and about
 8 him.

9 82. Plaintiffs, Mr. and Mrs Ray, are informed and believe and thereon allege that
 10 others, together with them, informed the defendants and each of them that Mr. Ray resided
 11 in the home on Miles Avenue and that the force was excessive and unnecessary. Plaintiffs
 12 are informed and believe and thereon allege that defendants and each of them in conscious
 13 disregard for the harm failed and refused to cease their excessive force.

14 83. Plaintiffs are informed and believe and thereon allege that said force by
 15 defendants, and each of them, was under the color of law and authority, was unjustified,
 16 unreasonable and excessive and was used in wanton disregard for the harm that it would
 17 cause plaintiffs; and was an abuse of said law and authority in violation of plaintiffs civil
 18 rights granted to them by the constitutions of the State of California and the United States of
 19 America and the acts or omissions to act by the defendants were neither privileged or justified
 20 under statute or common law.

21 84. Defendants, and each of them, acted under color of law and authority and
 22 without due process of law in subjecting Mr. Ray to detention, threat of force, force, use of
 23 excessive force, and false imprisonment all with the intent of and having the result that Mr.
 24 Ray was deprived of certain constitutionally protected rights including but not limited to:

- 25 a] the right to be free from unreasonable search and seizures as guaranteed by
 26 the Fourth and Fifth Amendments to the United States Constitution.
- 27 b] the right not to be deprived of life or liberty without due process of law, as
 28 guaranteed by the Fourteenth and Fifth Amendments to the United States

Constitution:

2 c] the right to be free from the use of excessive force by police officers and
3 sheriffs under the color of law and authority as guaranteed by the Fourth and
4 Fifth Amendments to the United States Constitution.

5 d] the right to equal protection under the law as guaranteed by the Fourteenth
6 and Fifth Amendments to the United States Constitution.

7 e] the right to be free from interference within a zone of privacy, as protected by
8 the Fourth and Ninth Amendments to the United States Constitution.

9 WHEREFORE, plaintiffs pray for relief as herein after set forth.

SEVENTH CAUSE OF ACTION

(MONELL-42 USC SECTION 1983 ALL DEFENDANTS)

12 85. Plaintiff Mr. Ray incorporates herein by this reference each and all of the
13 preceding paragraphs as though fully set forth.

14 86. In or about February, 2007 plaintiff , a middle aged middle class African
15 American adult man, while outside of his own personal residence located on Miles Avenue
16 Oakland California, clothed in his pajamas, bath rob and bedroom slippers holding water
17 for a friend, was violently and without just cause or reasonable basis assaulted, battered,
18 falsely imprisoned, embarrassed, and humiliated at gun point by officers and agents he is
19 informed and believes were police officers of City and sheriffs of County; he was forced to
20 the ground, had his arms wrenched behind his back, was forcibly hand cuffed and falsely
21 imprisoned in front of his wife, friend, neighbors and unknown others, had guns and lights
22 thrust into his face all the while with canine units and helicopters crashing next to and
23 around and about his person putting him in fear of immediate harm to himself and his wife.

24 87. Plaintiffs, Mr. and Mrs Ray, are informed and believes and thereon
25 allege that they each together with others, then present, informed the defendants and each
26 of them that Mr. Ray resided in the home on Miles Avenue and that the force was excessive
27 and unnecessary. Plaintiffs are informed and believe and thereon allege that defendants
28 and each of them in reckless or callous disregard for plaintiffs' individual and collective civil

1 rights and in conscious disregard for the harm proximately caused thereby failed and refused
2 to cease their use of unreasonable and excessive force.

3 88. Plaintiffs are informed and believe and thereon allege that the acts or
4 omissions alleged herein are the direct and proximate result of the deliberate indifference of
5 high ranking officials, including but not limited to Defendants Tucker and Ahern, and Does
6 7 through 15, to repeated acts of misconduct by police and sheriffs which misconduct is
7 tacitly authorized encouraged, condoned or ignored by City and County and has become
8 policy, patterns, practices or custom of City and County in callous and reckless disregard
9 of plaintiffs constitutionally protected rights pursuant to the United States and California
10 Constitutions.

11 89. Plaintiffs are further informed and believe and thereon allege that said high
12 ranking officials, including but not limited to Defendants Tucker and Ahern, and Does 7
13 through 15, knew or reasonably should have known that Doe defendants 1 through 6 and
14 16 through 75, and each of them were untrained or inadequately trained in use of
15 reasonable and permissible use of force and the investigation of alleged criminal conduct
16 such that there existed and continues to exist a reckless or callous disregard for the civil rights
17 of plaintiffs which has become the policy, pattern, practice or custom of said City and
18 County, individually and collectively.

19 90. Plaintiffs are informed and believe and thereon allege that the damages
20 suffered by them were proximately caused by the customs, policies, patterns and practices
21 of the defendants, including said indifference, all under color of law and authority, without
22 due process of law, and in reckless or callous disregard of plaintiffs civil rights, subjecting
23 plaintiff, Mr. Ray, to force, threat of force, detention, use of excessive force, and false
24 imprisonment all with the intent of and having the result that plaintiff Mr. Ray was deprived
25 of certain constitutionally protected rights including but not limited to:

26 a] the right to be free from unreasonable search and seizures as guaranteed by
27 the Fourth and Fifth Amendments to the United States Constitution.
28 b] the right not to be deprived of life or liberty without due process of law, as

1 guaranteed by the Fourteenth and Fifth Amendments to the United States
2 Constitution.

3 c] the right to be free from the use of excessive force by police officers and
4 sheriffs under the color of law and authority as guaranteed by ~~the~~ Fourth and
5 Fifth Amendments to the United States Constitution.

6 d] the right to equal protection under the law as guaranteed by the Fourteenth
7 and Fifth Amendments to the United States Constitution.

8 e] the right to be free from interference within a zone of privacy , as protected by
9 the Fourth and Ninth Amendments to the United States Constitution.

10 WHEREFORE, plaintiffs pray for relief as herein after set forth.

11 EIGHTH CAUSE OF ACTION

12 (INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS)

13 91. Plaintiffs incorporate herein by this reference each and all of the
14 preceding paragraphs as though fully set forth.

15 92. The conduct of defendants City, County, Tucker, Ahern and Does 1 through
16 75, inclusive as set forth herein was extreme and outrageous and beyond the scope of
17 conduct which should be tolerated by citizens in a democratic and civilized society.
18 Defendants , and each of them, committed these extreme and outrageous acts and
19 omissions with the intent to inflict severe mental and emotional distress upon plaintiffs.

20 93. As a direct and proximate result of defendants and each of their willful
21 intentional and malicious conduct plaintiffs Mr. Ray and Mrs. Ray each suffered severe and
22 extreme mental and emotional distress.

23 94. Plaintiffs Mr. Ray and Mrs. Ray each individually and collectively as husband
24 and wife are entitled to an award of damages according to proof and exemplary as against
25 said defendants City, County, Tucker, Ahern and Does 1 through 75, inclusive as herein
26 after set forth.

27 WHEREFORE, plaintiffs pray for relief as herein after set forth.

28 //

NINTH CAUSE OF ACTION

(VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52 ET SEQ)

3 95. Plaintiffs incorporate herein by this reference each and all of the
4 preceding paragraphs as though fully set forth.

5 96. The conduct of defendants City, County, Tucker, Ahern, and Doe defendants
6 1 through 75, inclusive, through the acts and omissions to act set forth herein while acting
7 in the course and scope of their employment or pursuant to color of law and authority
8 violated California Civil Code Sections 51 et seq, 52, 52.1 et seq, as Plaintiff Mr. Ray's
9 exercise of his civil rights and enjoyment were interfered with through the use of wrongful
10 and excess force and failure to make any proper inquiry or detention.

11 97. Plaintiffs are informed and believe and thereon allege that said acts and
12 omissions to act by the defendants and each of them occurred in the course and scope of
13 defendants Tucker, Ahern, and Doe defendants 1 through 75, inclusive, employment by City
14 and County respectively and that said City and County are liable to plaintiffs pursuant to
15 respondent superior.

16 WHEREFORE, plaintiffs pray for relief as herein after set forth.

TENTH CAUSE OF ACTION

(NEGLIGENCE)

19 98. Plaintiffs incorporate herein by this reference each and all of the
20 preceding paragraphs as though fully set forth except as for any intentional malicious extreme
21 outrageous wanton and oppressive conduct by defendants together with allegations
22 regarding or relating to exemplary or punitive damages.

23 99. Defendants City, County, Tucker, Ahern, and Doe defendants 1 through 75,
24 inclusive, through the acts and omissions to act set forth herein while acting in the course
25 and scope of their employment, and pursuant to color of law and authority on behalf of City
26 and County, respectively, were each subject to a duty of care to avoid causing unnecessary
27 physical, emotional and mental harm to persons through the use of force and putting
28 people into police or sheriff custody or control. The wrongful conduct of the defendants,

1 and each of them, as set forth herein did not comply with the standard of care to be
 2 exercised by reasonable persons and proximately caused plaintiffs to suffer injuries and
 3 damages as here in set forth. Pursuant to Government Code Section 815.2(a) City is
 4 vicariously liable to plaintiffs for Mr. Ray's injuries and damages as herein set forth.
 5 WHEREFORE, plaintiffs pray for relief as herein after set forth.

6 ELEVENTH CAUSE OF ACTION

7 (LOSS OF CONSORTIUM)

8 100. Plaintiff Mr. Ray incorporates herein by this reference each and all of the
 9 preceding paragraphs as though fully set forth.

10 101. In or about February, 2007 plaintiff , a middle aged middle class African
 11 American man, while outside of his own personal residence located on Miles Avenue
 12 Oakland California, clothed in his pajamas, bath rob and bedroom slippers holding water
 13 for a friend, was violently and without just cause or reasonable basis assaulted, battered,
 14 falsely imprisoned, embarrassed, and humiliated at gun point by officers and agents he is
 15 informed and believes were police officers of City and sheriffs of County; he was thrown to
 16 the ground, had his arms wrenched behind his back, was forcibly hand cuffed at gun point
 17 in front of his wife, friend, neighbors and unknown others, had guns and lights thrust into his
 18 face all the while with canine units and helicopters crashing next to and around and about
 19 his person putting him in fear of immediate harm to himself and his wife.

20 102. Plaintiffs, Mr. and Mrs Ray, are informed and believes and thereon
 21 allege that they each together with others then present informed the defendants and each
 22 of them that Mr. Ray resided in the home on Miles Avenue and that the force was excessive
 23 and unnecessary. Plaintiffs are informed and believe and thereon allege that defendants and
 24 each of them in reckless or callous disregard for plaintiffs' individual and collective civil rights
 25 and in conscious disregard for the harm proximately caused thereby failed and refused to
 26 cease their use of unreasonable and excessive force on plaintiff Mr. Ray.

27 103. Defendants and each of them acted under color of law and authority and
 28 without due process of law, in reckless or callous disregard of plaintiffs civil rights in and by
 Complaint/Civil Rights/Assault et al.

1 subjecting plaintiff, Mr. Ray, to threat of force, force, use of excessive force, and false
2 imprisonment all with the intent of and having the result that plaintiff Mr. Ray suffered pain,
3 humiliations, embarrassment and deprivation of his constitutionally protected rights in front
4 of his wife.

5 104. As a direct and proximate result of the acts and omissions of the defendants,
6 each acting under the color of law and authority, plaintiff Mr. Ray suffered injury in his
7 strength, health, and activity, to his body, and shock to his nervous system including injury
8 to his back and shoulders, humiliation, embarrassment and feelings of shame all to his
9 general damages.

10 105. As a further proximate result of defendants' unlawful conduct, plaintiff suffered
11 special damages including but not limited to loss of salary, medical and professional
12 expenses.

13 106. Prior to the injuries, plaintiff Mr. Ray and his spouse were able to and did
14 each perform their duties as a spouse one to the other. Subsequent to the acts and
15 omissions by the defendants and each of them and the injuries proximately caused to Mr. Ray
16 thereby Mr. Ray has been impacted in his ability to perform his duties to his spouse including
17 but not limited to the loss of companionship, affection, solace and moral support and other
18 marital acts in the same manner and degree as prior thereto all to Mr. Ray's damage.
19 WHEREFORE, plaintiff Mr. Ray prays for relief as herein after set forth.

TWELFTH CAUSE OF ACTION

(LOSS OF CONSORTIUM)

22 107. Plaintiff Mrs. Ray incorporates herein by this reference each and all of the
23 preceding paragraphs as though fully set forth.

24 108. In or about February, 2007 plaintiff Mrs. Ray watched as her husband, a
25 middle aged middle class African American adult man, while outside of his own personal
26 residence located on Miles Avenue Oakland California, clothed in his pajamas, bath rob
27 and bedroom slippers holding water for a friend, was violently and without just cause or
28 reasonable basis assaulted, battered, falsely imprisoned, embarrassed, and humiliated at

1 gun point by officers and agents she is informed and believes were police officers of City
 2 and sheriffs of County; she watched as he was thrown to the ground, had his arms wrenched
 3 behind his back, was forcibly hand cuffed at gun point in front of her his wife, his friend,
 4 neighbors and unknown others, had guns and lights thrust into his face all the while with
 5 canine units and helicopters crashing next to and around and about his person putting her
 6 in fear of immediate harm to him and herself.

7 109. Plaintiffs, Mr. and Mrs Ray, are informed and believes and thereon
 8 allege that they each together with others informed the defendants, and each of them, that
 9 Mr. Ray resided in the home on Miles Avenue and that the force was excessive and
 10 unnecessary. Plaintiffs are informed and believe and thereon allege that defendants and
 11 each of them in reckless or callous disregard for plaintiffs' individual and collective civil rights
 12 and in conscious disregard for the harm proximately caused thereby failed and refused to
 13 cease their use of unreasonable and excessive force on plaintiff Mr. Ray.

14 110. Defendants, and each of them, acted under color of law and authority and
 15 without due process of law, in reckless or callous disregard of plaintiffs civil rights in and by
 16 subjecting plaintiff, Mr. Ray, to threat of force, force, use of excessive force, and false
 17 imprisonment at gun point all with the intent of and having the result that plaintiff Mr. Ray
 18 suffered pain, humiliations, embarrassment and deprivation of his constitutionally protected
 19 rights in front of his wife.

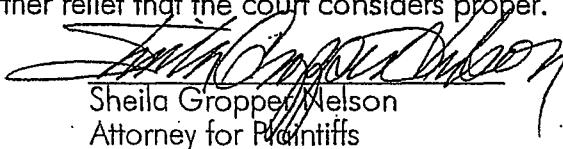
20 111. Prior to the injuries suffered by plaintiff Mr. Ray he and Mrs. Ray, his spouse
 21 were able to and did each perform their duties as a spouse one to the other. Subsequent
 22 to the acts and omissions by the defendants and each of them and the injuries proximately
 23 caused to Mr. Ray, he Mr. Ray has been impacted in his ability to perform his duties to his
 24 spouse including but not limited to loss of companionship, affection, solace and moral
 25 support and other marital acts in the same manner and degree as prior thereto all to Mrs.
 26 Ray's damage. By reason thereof Mrs. Ray is informed and believes and thereon alleges that
 27 she has been permanently deprived of the consortium of her spouse, including the
 28 performance of his necessary duties, as well as his companionship, affection, solace and
 Complaint/Civil Rights/Assault et al.

1 moral support to the same extent as prior to said acts and omissions all to her damage.
2 WHEREFORE, plaintiff Mrs. Ray prays for relief as herein after set forth.

3 NOW THEREFORE, plaintiff s Mr. And Mrs. Ray demand and pray for
4 judgment in their favor and as against defendants, and each of them, as follows:

- 5 A For general damages, for Mr. Ray, according to proof;
- 6 B. For general damages for Mrs. Ray according to proof;
- 7 C. For special damages for Mr. Ray according to proof;
- 8 D. For special damages for Mrs. Ray according to proof;
- 9 E. For punitive damages for Mr. Ray and Mrs. Ray;
- 10 F. For injunctive relief, per CC §52 et seq, enjoining City and County,
11 individually and together, from using excess and unreasonable force of
12 persons under color of law;
- 13 G. For violation of CC §51.7 et seq., pursuant to CC §52.1 punitive damages
14 of \$25,000.00 against police officers for each offense and reasonable
15 attorney fees;
- 16 H. For statutory damages and reasonable attorneys fees for violation of CC §52
17 and 52.1 et seq.;
- 18 I. For fees and costs, including reasonable attorney fees as allowed by law, and
19 costs of suit.
- 20 J. For such other and further relief that the court considers proper.

21 Dated 3.7.8


Sheila Gropper Nelson
Attorney for Plaintiffs

23 DEMAND FOR JURY TRIAL

24 Plaintiffs hereby demand trial of this matter by jury.

25 Dated 3.7.8


Sheila Gropper Nelson
Attorney for Plaintiffs

EXHIBIT B

POS-010

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 455 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 415-362-2221</p> <p>ATTORNEY FOR Plaintiff</p> <p>Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607</p>	<p>FOR COURT USE ONLY</p> <p>FILED ALAMEDA COUNTY</p> <p>JUL 8 2008</p>
<p>PLAINTIFF/PETITIONER: Richard Ray and Sally Ray</p> <p>DEFENDANT/RESPONDENT: City of Oakland et al</p>	<p>CLERK OF THE SUPERIOR COURT By <u>Cecilia Anchondo</u> Deputy</p> <p>CASE NUMBER: RG08375364</p>
<p>PROOF OF SERVICE OF SUMMONS</p>	
<p>Ref No. or File No.: Ray</p>	

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH
 SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT, RESERVATION

3a. Party served:

CHIEF OF THE CITY OF
 OAKLAND POLICE DEPARTMENT

4. Address where party was served:

455 7TH ST.
 OAKLAND CA 94612

5. I served the party

b. By substituted service. On: 07/02/08 at: 2:25 PM I left the documents listed in item 2 with or in the presence of:

OFFICER HOLDEN

FRONT DESK CLERK

(1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., Section 415.20). I mailed the documents on

CONTINUED ON THE NEXT PAGE

PLAINTIFF/PETITIONER:	Richard Ray and Sally Ray	CASE NUMBER:
DEFENDANT/RESPONDENT:	City of Oakland et al	RG08375364

A DECLARATION OF MAILING IS ATTACHED.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. On behalf of:

CHIEF OF THE CITY OF
OAKLAND POLICE DEPARTMENT

under the following Code of Civil Procedure section:

416.50 (public entity)

7. Person who served papers

a. Name: Granville Smith

b. Address: 1199 MONTEREY PASS ROAD MONTEREY PARK, CA 91754

c. Telephone Number: 323-526-7300

d. The fee for service was: \$91.52

e. I am:

(3) [X] registered California process server:

(i) [X] Independent contractor

(ii) Registration No.: 1014 Expires: 08/13/09

(iii) County: ALAMEDA

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

07/03/08

Granville Smith

RAPID LEGAL INC., SAN BERNARDINO CO. REG # 1086, EXPIRES 04/15/10

Form Adopted for Mandatory Use
Judicial Council of California POS-010
(Rev. January 1, 2007)

PROOF OF SERVICE OF SUMMONS

Code of Civil Procedure, § 417.10

Invoice No.: 646884

6757279

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NUMBER	FOR COURT USE ONLY	
SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 ATTORNEY FOR Plaintiff		415-362-2221	FILED ALAMEDA COUNTY	
Insert name of court and name of judicial district and branch if any.		Ref. No. or File No.	JUL 8 2008	
Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607		Ray	CLERK OF THE SUPERIOR COURT	By <i>Cecilia Anchondo</i>
SHORT TITLE OF CASE:		Deputy		
Richard Ray and Sally Ray v City of Oakland et al				
INVOICE NO.	DATE:	TIME:	DEP./DIV.	CASE NUMBER:
646884	07/25/08	11:15 AM	30	RG08375364

PROOF OF SERVICE BY MAIL

I AM A CITIZEN OF THE UNITED STATES AND EMPLOYED IN THE COUNTY OF LOS ANGELES STATE OF CALIFORNIA. I AM AND WAS ON THE DATES HEREIN MENTIONED, OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ACTION.

ON 07/03/08 AFTER SUBSTITUTED SERVICE UNDER SECTION 415.20(a) OR 415.20(b)

C.C.P., WAS MADE, I SERVED THE WITHIN:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH
SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT, RESERVATION O

ON THE DEFENDANT, IN SAID ACTION BY PLACING A TRUE COPY THEREOF ENCLOSED IN A SEALED ENVELOPE WITH POSTAGE THEREON PRE-PAID FOR FIRST CLASS IN THE UNITED STATES MAIL AT: HAYWARD, CALIFORNIA, ADDRESSED AS FOLLOWS:

CHIEF OF THE CITY OF
OAKLAND POLICE DEPARTMENT

455 7TH ST.
OAKLAND CA 94612

DECLARANT: Layla Silvestre

RAPID LEGAL INC.
1199 MONTEREY PASS ROAD
MONTEREY PARK, CA 91754
323-526-7300 FAX 323-526-7377

- d. Registered California process server
- (1) Employee or Independent Contractor
- (2) Registration No. 08-1047
- (3) County: SAN FRANCISCO
- (4) Expiration:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: 07/03/08

>
SIGNATURE

Layla Silvestre

6757267

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 455 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 415-362-2221 ATTORNEY FOR Plaintiff		FOR COURT USE ONLY FILED ALAMEDA COUNTY JUL 8 2008 CLERK OF THE SUPERIOR COURT By <i>Cecilia Donahue</i> Deputy
Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607		
PLAINTIFF/PETITIONER:	Richard Ray and Sally Ray	CASE NUMBER:
DEFENDANT/RESPONDENT:	City of Oakland et al	RG08375364
PROOF OF SERVICE OF SUMMONS		Ref No. or File No.: Ray

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH
SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT,
RESERVATION OF DAMAGES

3a. Party served:

CITY OF OAKLAND,
A MUNICIPAL ORGANIZATION

4. Address where party was served:

1 FRANK OGAWA PLAZA 6TH F
OAKLAND CA 94612

5. I served the party

b. By substituted service. On: 07/02/08 at: 2:03 PM I left the documents listed in item 2 with or in the presence of:

BARBARA HARRIS

EMPLOYEE - PUBLIC SERVICE REPRESENTATIVE

(1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., Section 415.20). I mailed the documents on

CONTINUED ON THE NEXT PAGE

PLAINTIFF/PETITIONER:	Richard Ray and Sally Ray	CASE NUMBER:
DEFENDANT/RESPONDENT:	City of Oakland et al	RG08375364

A DECLARATION OF MAILING IS ATTACHED.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. On behalf of:

CITY OF OAKLAND,
A MUNICIPAL ORGANIZATION

under the following Code of Civil Procedure section:

416.50 (public entity)

7. Person who served papers

- a. Name: Granville Smith
- b. Address: 1199 MONTEREY PASS ROAD MONTEREY PARK, CA 91754
- c. Telephone Number: 323-526-7300
- d. The fee for service was: \$91.52
- e. I am:
 - (3) [X] registered California process server:
 - (i) [X] Independent contractor
 - (ii) Registration No.: 1014 Expires: 08/13/09
 - (iii) County: ALAMEDA

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

07/03/08

Granville Smith

RAPID LEGAL INC., SAN BERNARDINO CO. REG # 1086, EXPIRES 04/15/10

Form Adopted for Mandatory Use
Judicial Council of California POS-010
(Rev. January 1, 2007)

PROOF OF SERVICE OF SUMMONS

Code of Civil Procedure, § 417.10

Invoice No.: 646886

6757263*

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NUMBER	FOR COURT USE ONLY	
SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104		415-362-2221	FILED ALAMEDA COUNTY	
ATTORNEY FOR Plaintiff		Ref. No. or File No.	JUL 8 2008	
		Ray	CLERK OF THE SUPERIOR COURT <i>Cecilia Anchondo</i> By Deputy	
Insert name of court and name of judicial district and branch if any. Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607				
SHORT TITLE OF CASE: Richard Ray and Sally Ray v City of Oakland et al.				
INVOICE NO.	DATE:	TIME:	DEP./DIV.	CASE NUMBER:
646886	07/25/08	11:15 AM	30	RG08375364

PROOF OF SERVICE BY MAIL

I AM A CITIZEN OF THE UNITED STATES AND EMPLOYED IN THE COUNTY OF LOS ANGELES STATE OF CALIFORNIA. I AM AND WAS ON THE DATES HEREIN MENTIONED, OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ACTION.
ON 07/03/08 AFTER SUBSTITUTED SERVICE UNDER SECTION 415.20(a) OR 415.20(b)

C.C.P., WAS MADE; I SERVED THE WITHIN:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH
SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT,
RESERVATION OF DAMAGES

ON THE DEFENDANT, IN SAID ACTION BY PLACING A TRUE COPY THEREOF ENCLOSED
IN A SEALED ENVELOPE WITH POSTAGE THEREON PRE-PAID FOR FIRST CLASS IN THE
UNITED STATES MAIL AT: HAYWARD, CALIFORNIA, ADDRESSED AS FOLLOWS:

CITY OF OAKLAND,
A MUNICIPAL ORGANIZATION

1 FRANK OGAWA PLAZA 6TH F
OAKLAND CA 94612

DECLARANT: Layla Silvestre

RAPID LEGAL INC.
1199 MONTEREY PASS ROAD
MONTEREY PARK, CA 91754
323-526-7300 FAX 323-526-7377

- d. Registered California process server
- (1) Employee or Independent Contractor
- (2) Registration No. 08-1047
- (3) County: SAN FRANCISCO
- (4) Expiration:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: 07/03/08

>
SIGNATURE
Layla Silvestre

ATTORNEY OR PARTY WITHOUT ATTORNEY SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 415-362-2221 ATTORNEY FOR Plaintiff <i>PCD</i> Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607	FOR COURT USE ONLY FILED ALAMEDA COUNTY JUL 8 2008 CLERK OF THE SUPERIOR COURT By <i>Cecilia Anchondo</i> Deputy
PLAINTIFF/PETITIONER: Richard Ray and Sally Ray DEFENDANT/RESPONDENT: City of Oakland et al	CASE NUMBER: RG08375364
PROOF OF SERVICE OF SUMMONS	
Ref No. or File No.: Ray	

1. At the time of service I was at least 18 years of age and not a party to this action..

2. I served copies of the:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH
SUMMONS, CASE MANAGEMENT , RESERVATION OF DAMAGES, ADR,
JUDGE ASSIGNMENT

3a. Party served:

ALAMEDA COUNTY

4. Address where party was served:

1221 OAK STREET ROOM 463
OAKLAND CA 94612

5. I served the party

b. By substituted service. On: 07/02/08 at: 3:00 PM I left the documents listed in item 2 with or in the presence of:

RONDA BAILEY

EMPLOYEE - AGENT

(1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., Section 415.20). I mailed the documents on

CONTINUED ON THE NEXT PAGE

PLAINTIFF/PETITIONER:	Richard Ray and Sally Ray	CASE NUMBER:
DEFENDANT/RESPONDENT:	City of Oakland et al	RG08375364

A DECLARATION OF MAILING IS ATTACHED.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. On behalf of:

ALAMEDA COUNTY

under the following Code of Civil Procedure section:

416.50 (public entity)

7. Person who served papers

- a. Name: Granville Smith
- b. Address: 1199 MONTEREY PASS ROAD MONTEREY PARK, CA 91754
- c. Telephone Number: 323-526-7300
- d. The fee for service was: \$91.52
- e. I am:
 - (3) [X] registered California process server:
 - (i) [X] Independent contractor
 - (ii) Registration No.: 1014 Expires: 08/13/09
 - (iii) County: ALAMEDA

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

07/03/08

Granville Smith

RAPID LEGAL INC., SAN BERNARDINO CO. REG # 1086, EXPIRES 04/15/10

Form Adopted for Mandatory Use
Judicial Council of California POS-010
[Rev. January 1, 2007]

PROOF OF SERVICE OF SUMMONS

Code of Civil Procedure, § 417.10

Invoice No.: 646896

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NUMBER	FOR COURT USE ONLY	
SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 ATTORNEY FOR Plaintiff		415-362-2221 Ref. No. or File No. Ray		
Insert name of court and name of judicial district and branch if any.			FILED ALAMEDA COUNTY	
Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607			JUL 8 2008	
SHORT TITLE OF CASE:			CLERK OF THE SUPERIOR COURT By <i>Cecilia Anchondo</i> Deputy	
Richard Ray and Sally Ray v City of Oakland et al				
INVOICE NO.	DATE:	TIME:	DEP./DIV.	CASE NUMBER:
646896	07/25/08	11:15 AM	30	RG08375364

PROOF OF SERVICE BY MAIL

I AM A CITIZEN OF THE UNITED STATES AND EMPLOYED IN THE COUNTY OF LOS ANGELES STATE OF CALIFORNIA. I AM AND WAS ON THE DATES HEREIN MENTIONED, OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ACTION.

ON 07/03/08 AFTER SUBSTITUTED SERVICE UNDER SECTION 415.20(a) OR 415.20(b)

C.C.P., WAS MADE, I SERVED THE WITHIN:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH
SUMMONS, CASE MANAGEMENT, RESERVATION OF DAMAGES, ADR,
JUDGE ASSIGNMENT

ON THE DEFENDANT, IN SAID ACTION BY PLACING A TRUE COPY THEREOF ENCLOSED IN A SEALED ENVELOPE WITH POSTAGE THEREON PRE-PAID FOR FIRST CLASS IN THE UNITED STATES MAIL AT: HAYWARD, CALIFORNIA, ADDRESSED AS FOLLOWS:

ALAMEDA COUNTY

1221 OAK STREET ROOM 463
OAKLAND CA 94612

DECLARANT: Layla Silvestre

RAPID LEGAL INC.
1199 MONTEREY PASS ROAD
MONTEREY PARK, CA 91754
323-526-7300 FAX 323-526-7377

- d. Registered California process server
- (1) Employee or Independent Contractor
- (2) Registration No. 08-1047
- (3) County: SAN FRANCISCO
- (4) Expiration:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: 07/03/08

>
SIGNATURE
Layla Silvestre

6757255

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104 415-362-2221		FOR COURT USE ONLY FILED ALAMEDA COUNTY JUL 8 2008 CLERK OF THE SUPERIOR COURT By <u>Cecilia Archuleta</u> Deputy
ATTORNEY FOR Plaintiff Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607		
PLAINTIFF/PETITIONER: Richard Ray and Sally Ray	CASE NUMBER:	
DEFENDANT/RESPONDENT: City of Oakland et al	RG08375364	
PROOF OF SERVICE OF SUMMONS		
Ref No. or File No.: Ray		

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH
SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT,
RESERVATION OF DAMAGES

3a. Party served:

ALAMEDA COUNTY SHERIFF
BY SERVING SERGEANT MARTINEZ

4. Address where party was served:

1401 LAKESIDE DR 7TH FL
OAKLAND CA 94612

5. I served the party

b. By substituted service. On: 07/02/08 at: 1:31 PM I left the documents listed in item 2 with or in the presence of:

CYNTHIA VAUGHN

SECRETARY FOR SGT. MARTINEZ

(1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., Section 415.20). I mailed the documents on

CONTINUED ON THE NEXT PAGE

PLAINTIFF/PETITIONER:	Richard Ray and Sally Ray	CASE NUMBER:
DEFENDANT/RESPONDENT:	City of Oakland et al	RG08375364

A DECLARATION OF MAILING IS ATTACHED.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. On behalf of:

ALAMEDA COUNTY SHERIFF
BY SERVING SERGEANT MARTINEZ

under the following Code of Civil Procedure section:

416.50 (public entity)

7. Person who served papers

- a. Name: Granville Smith
- b. Address: 1199 MONTEREY PASS ROAD MONTEREY PARK, CA 91754
- c. Telephone Number: 323-526-7300
- d. The fee for service was: \$91.52
- e. I am:
 - (3) [X] registered California process server:
 - (i) [X] Independent contractor
 - (ii) Registration No.: 1014 Expires: 08/13/09
 - (iii) County: ALAMEDA

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

07/03/08

Granville Smith

RAPID LEGAL INC., SAN BERNARDINO CO, REG # 1086, EXPIRES 04/15/10

Form Adopted for Mandatory Use
Judicial Council of California POS-010
[Rev. January 1, 2007]

PROOF OF SERVICE OF SUMMONS

Code of Civil Procedure, § 417.10

Invoice No.: 646890

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NUMBER	FOR COURT USE ONLY	
SHEILA NELSON SBN SHEILA GROPPER NELSON, L/O OF 456 MONTGOMERY ST. SUITE 1300 SAN FRANCISCO CA 94104		415-362-2221	FILED ALAMEDA COUNTY	
ATTORNEY FOR Plaintiff		Ref. No. or File No. Ray	JUL 8 2008	
Insert name of court and name of judicial district and branch if any. Alameda Oakland - Wiley W. Manuel 661 Washington St Oakland CA 94607				CLERK OF THE SUPERIOR COURT <i>Cecilia Anchando</i> Deputy
SHORT TITLE OF CASE: Richard Ray and Sally Ray v City of Oakland et al				
INVOICE NO.	DATE:	TIME:	DEP./DIV.	CASE NUMBER:
646890	07/25/08	11:15 AM	30	RG08375364

PROOF OF SERVICE BY MAIL

I AM A CITIZEN OF THE UNITED STATES AND EMPLOYED IN THE COUNTY OF LOS ANGELES STATE OF CALIFORNIA. I AM AND WAS ON THE DATES HEREIN MENTIONED, OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ACTION.
ON 07/03/08 AFTER SUBSTITUTED SERVICE UNDER SECTION 415.20(a) OR 415.20(b)

C.C.P., WAS MADE, I SERVED THE WITHIN:

COMPLAINT-PERSONAL INJURY, PROPERTY DAMAGE, WRONGFUL DEATH
SUMMONS, ADR PACKAGE, CASE MANAGEMENT, JUDGE ASSIGNMENT,
RESERVATION OF DAMAGES

ON THE DEFENDANT, IN SAID ACTION BY PLACING A TRUE COPY THEREOF ENCLOSED
IN A SEALED ENVELOPE WITH POSTAGE THEREON PRE-PAID FOR FIRST CLASS IN THE
UNITED STATES MAIL AT: HAYWARD, CALIFORNIA, ADDRESSED AS FOLLOWS:

ALAMEDA COUNTY SHERIFF
BY SERVING SERGEANT MARTINEZ

1401 LAKESIDE DR 7TH FL
OAKLAND CA 94612

DECLARANT: Layla Silvestre

RAPID LEGAL INC.
1199 MONTEREY PASS ROAD
MONTEREY PARK, CA 91754
323-526-7300 FAX 323-526-7377

- d. Registered California process server
- (1) Employee or Independent Contractor
- (2) Registration No. 08-1047
- (3) County: SAN FRANCISCO
- (4) Expiration:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: 07/03/08

>
SIGNATURE *Layla Silvestre*

EXHIBIT C

FILED BY FAX

ALAMEDA COUNTY

July 23, 2008

CLERK OF
THE SUPERIOR COURT
By Denise Dalton, Deputy

CASE NUMBER:
RG08375364

1 JOHN A. RUSSO, City Attorney, SBN 129729
2 RANDOLPH W. HALL, Chief Asst. City Atty., SBN 080142
2 WILLIAM E. SIMMONS, Supervising Trial Atty., SBN 121266
JENNIFER N. LOGUE, Deputy City Atty., SBN 241910
3 One Frank H. Ogawa Plaza, 6th Floor
Oakland, California 94612
4 Telephone: (510) 238-6524, Fax: (510) 238-6500
26055-462493

Attorneys for Defendants
CITY OF OAKLAND and WAYNE TUCKER

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA
(UNLIMITED JURISDICTION)**

12 RICHARD RAY, an individual, SALLY RAY,
an individual, and RICHARD AND SALLY,
13 husband and wife.

14 Plaintiffs.

15

16 CITY OF OAKLAND, a municipal
organization, WAYNE TUCKER, Chief of
the City of Oakland Police Department,
17 ALAMEDA COUNTY, GREGORY AHEM,
ALAMEDA COUNTY SHERIFF DOE
18 DEFENDANT 1, an unknown police officer,
DOE DEFENDANT 2 an unknown police
officer, DOE DEFENDANT 3, an unknown
19 police officer, DOE 4, an unknown police
officer, DOES 5 an unknown sheriff, DOE 6
20 an unknown sheriff, and Does 7 to 75,
21 inclusive.

22 | Defendant(s)

24 Defendants CITY OF OAKLAND and WAYNE TUCKER hereby answer,
25 object, and otherwise respond to the Complaint on file herein as follows:

Defendants generally deny each and every allegation contained in said

Case No. RG08-375364

ASSIGNED FOR ALL PURPOSES
TO HON. KENNETH MARK BURR
DEPARTMENT 30

**DEFENDANTS CITY OF OAKLAND AND
WAYNE TUCKER'S ANSWER TO
COMPLAINT**

1 complaint.

2 I.

3 AS A FURTHER, FIRST, SEPARATE AND AFFIRMATIVE DEFENSE,
4 defendants allege that the complaint fails to state a cause of action.

5 II.

6 AS A FURTHER, SECOND, SEPARATE AND AFFIRMATIVE DEFENSE,
7 defendants allege, on information and belief, that plaintiffs did not exercise ordinary care,
8 caution, or prudence to avoid the alleged event and/or accident; consequently, the
9 subsequent injuries or damages, if any, sustained by plaintiffs were proximately caused by
10 and contributed to by plaintiffs' comparative negligence, and any damages they might
11 otherwise be entitled to should be proportionately reduced by the degree of plaintiffs'
12 negligence.

13 III.

14 AS A FURTHER, THIRD, SEPARATE AND AFFIRMATIVE DEFENSE,
15 defendants allege that the injuries and damages plaintiffs complain of resulted from the
16 acts and/or omissions of others, or acts of God, and without any fault on the part of
17 defendants.

18 IV.

19 AS A FURTHER, FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE,
20 defendants allege that any party or individual who contributed to and/or caused the
21 alleged injuries and damages was not acting as its agent or with its knowledge or within
22 the course and/or scope of employment with defendant CITY OF OAKLAND.

23 V.

24 AS A FURTHER, FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE,
25 defendants allege that plaintiffs' claims are barred by all applicable Government Code
26 protections and immunities, including, but not limited to, sections 815 through 900. Said

1 sections are pleaded as though fully set forth herein.

2 VI.

3 AS A FURTHER, SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE,
4 defendants allege that all of the actions of defendants were undertaken in good faith and
5 with the objectively reasonable belief that such actions were valid, necessary, reasonable,
6 lawful and constitutionally proper, entitling defendants to the qualified immunity of good
7 faith.

8 VII.

9 AS A FURTHER, SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE,
10 defendants allege that, if they in any fashion caused the injuries or damages alleged,
11 although such liability is expressly denied herein, their acts and/or omissions were
12 reasonable and privileged.

13 VIII.

14 AS A FURTHER, EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE,
15 defendants allege, on information and belief, that plaintiffs failed to mitigate damages.

16 IX.

17 AS A FURTHER, NINTH, SEPARATE AND AFFIRMATIVE DEFENSE,
18 defendants allege that, to the extent that plaintiffs allege or assert matters not contained in
19 a legally sufficient claim filed by them, this action is barred by the claims requirements set
20 forth in Government Code Section 905 et seq.

21 X.

22 AS A FURTHER, TENTH, SEPARATE AND AFFIRMATIVE DEFENSE,
23 defendants allege that this action is barred, under Government Code § 945.6, by plaintiffs'
24 failure to file their action within six months after denial of their claim by defendants.

1 XI.
2
3

AS A FURTHER, ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE,
defendants allege that this action is barred by all applicable statutes of limitations.

4 XII.
5
6

AS A FURTHER, TWELTH, SEPARATE AND AFFIRMATIVE DEFENSE,
defendants presently have insufficient knowledge or information on which to form a belief
as to whether it may have additional, as yet unstated, defenses available. Defendants
reserve herein the right to assert additional defenses in the event discovery indicates that
they would be appropriate.

10

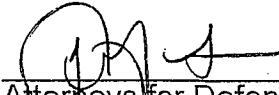
11 **PRAYER**
12

WHEREFORE, defendants pray that:

- 13 1. Plaintiffs take nothing by their Complaint;
- 14 2. Defendants have judgment against Plaintiffs;
- 15 3. Defendants be awarded their costs of suit; and
- 16 4. For such other and further relief as the Court may deem proper.

17 Dated: July 23, 2008

18 JOHN A. RUSSO, City Attorney
19 RANDOLPH W. HALL, Assistant City Attorney
20 WILLIAM E. SIMMONS, Supervising Trial Attorney
21 JENNIFER N. LOGUE, Deputy City Attorney

22 By: 

23 Attorneys for Defendants,
24 CITY OF OAKLAND and WAYNE TUCKER
25
26

1 **PROOF OF SERVICE**2 Richard Ray, et al. v. City of Oakland, et al.
2 Alameda County Superior Court No. RG08-3753643 I am a resident of the State of California, over the age of eighteen years,
4 and not a party to the within action. My business address is One Frank H. Ogawa Plaza,
5 6th Floor, Oakland, California 94612. On the date set forth below, I served the within
document:6 **DEFENDANTS CITY OF OAKLAND AND WAYNE TUCKER'S ANSWER TO
7 COMPLAINT**

- 8 by transmitting via facsimile the document(s) listed above to the fax
number(s) set forth below, or as stated on the attached service list, on
this date before 5:00 p.m.
- 10 by placing the document(s) listed above in a sealed envelope with
postage thereon fully prepaid, in the United States mail at Oakland,
California addressed as set forth.
- 12 by causing personal delivery by _____ of the document(s)
listed above to the person(s) at the address(es) set forth below.
- 13 by personally delivering the document(s) listed above to the person(s) set
forth below.

14 Sheila Gropper Nelson
15 LAW OFFICE OF SHEILA GROPPER NELSON
16 456 Montgomery Street, Suite 1700
16 San Francisco, CA 9410417 I am readily familiar with the City of Oakland's practice of collection and
processing correspondence for mailing. Under that practice it would be deposited with the
18 U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary
course of business.19 I declare under penalty of perjury under the laws of the State of California
20 that the above is true and correct.

21 Executed on July 23, 2008, at Oakland, California.

22 
23 _____
24 Cynthia Andrada